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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,230	03/30/2004	Charles E. Taylor	SHPR-01361USN	8116
23910	7590	11/26/2004	EXAMINER	
FLIESLER MEYER, LLP FOUR EMBARCADERO CENTER SUITE 400 SAN FRANCISCO, CA 94111			VERSTEEG, STEVEN H.	
		ART UNIT	PAPER NUMBER	
			1753	

DATE MAILED: 11/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/815,230	TAYLOR ET AL.
	Examiner Steven H VerSteeg	Art Unit 1753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 30 March 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 30 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   |  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
|  | 6) <input type="checkbox"/> Other: _____   |

## **DETAILED ACTION**

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: **70** [0008] and **150** [0050]. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-3 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 17 and 18 of U.S. Patent No. 6,713,026 B2.

Although the conflicting claims are not identical, they are not patentably distinct from each other because all of the claimed subject matter of claims 1-3 is fully claimed in claims 17 and 18 of the patent.

4. For claim 1, Applicant requires an air conditioner system comprising an upstanding, vertically elongated housing having a vertical channel and at least one air vent allowing air to enter the vertical channel; an ion generating unit positioned in the housing including an emitter electrode and a collector electrode configured to rest within the vertical channel; and a handle secured to at least the collector electrode to assist the user with vertically lifting the collector out of the channel and thereby out of the housing; wherein the collector electrode is vertically returnable into the vertical channel such that gravity will assist with return of the collector electrode to rest within the vertical channel.

5. For claim 2, Applicant requires an air conditioner system comprising an upstanding, vertically elongated housing having a vertical channel and at least one air vent allowing air to enter the vertical channel; an ion generating unit in the housing comprising an emitter electrode and a collector electrode configured to rest in the channel; and a handle secured to at least the collector electrode to assist with vertically lifting the electrode out of the channel and returning it to the channel.

6. For claim 3, Applicant requires an air conditioner system comprising an upstanding, vertically elongated housing having at least one air vent allowing air to enter the housing; an ion generating unit positioned in the housing including an emitter electrode and a collector electrode; and a handle secured to at least the collector electrode to assist in vertically lifting the electrode

out of the housing wherein the collector electrode is vertically returnable into the housing such that gravity will assist with the return of the electrode to rest in the housing.

7. The patent claims an ion producing air conditioning system comprising an upstanding, vertically elongated housing having at least one air vent, an ion generating unit in the housing including an emitter electrode and a removable collector electrode that is lifted out of the housing through the vertical channel and is returnable with the assistance of gravity (claim 18). Claim 18 does not disclose that a handle is connected to the collector electrode to assist in vertically removing it.

8. Claim 17 of the patent discloses that a handle can be secured to a removable collector electrode to assist in removing the electrode through the top of the housing.

9. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of claim 18 to have a handle on the collector electrode because of the desire to assist in removing the electrode from the vertical housing.

10. Claims 1-3 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 16 and 17 of copending Application No. 10/706,390. Although the conflicting claims are not identical, they are not patentably distinct from each other because all of the limitations of the instant invention are fully claimed in the co-pending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

11. Claims 1-3 are described above. The co-pending application claims an air conditioner system comprising an upstanding vertically elongated housing with at least one air vent; an ion

generating unit positioned in the housing including an emitter electrode and collector electrode, the ability to remove and replace the electrode with gravity, and vertical removal and replacement of the electrode (claim 17). Claim 17 of the co-pending application does not claim the use of a handle. Claim 16 of the application does and states that the handle is to assist in removal and replacement of the electrode.

12. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of claim 17 to have a handle on the collector electrode because of the desire to assist in removing the electrode from the vertical housing.

13. Claims 1-3 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 8 and 11 of copending Application No. 10/661,988. Although the conflicting claims are not identical, they are not patentably distinct from each other because all of the claim limitations of the instant application are fully claimed in the co-pending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

14. Claims 1-3 are described above. The co-pending application claims an air conditioner system comprising an upstanding vertically elongated housing with at least one air vent; an ion generating unit positioned in the housing including an emitter electrode and collector electrode, the ability to remove and replace the electrode with gravity, and a handle connected to the collector electrode (claim 8). Claim 8 of the co-pending application does not claim vertical removal and replacement of the collector electrode. Claim 11 of the application does.

15. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of claim 8 to have vertical removal and replacement of the collector electrode because of the desire to utilize a conventional orientation of the collection electrode.

***General Information***

For general status inquiries on applications not having received a first action on the merits, please contact the Technology Center 1700 receptionist at (571) 272-1700.

For inquiries involving Recovery of lost papers & cases, sending out missing papers, resetting shortened statutory periods, or for restarting the shortened statutory period for response, please contact Denis Boyd at (571) 272-0992.

For general inquiries such as fees, hours of operation, and employee location, please contact the Technology Center 1700 receptionist at (571) 272-1300.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven H VerSteeg whose telephone number is (571) 272-1348. The examiner can normally be reached on Mon - Thurs (6:30 AM - 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam X Nguyen can be reached on (571) 272-1342. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steven H VerSteeg  
Primary Examiner  
Art Unit 1753

shv

November 22, 2004